

## Message Text

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ACTION PM-04

INFO OCT-01 EUR-12 IO-13 ISO-00 CIAE-00 DODE-00 H-02

INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 ACDA-07 EB-07 NRC-05 OES-06 FEAE-00 ERDA-05

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R 281251Z JUL 76

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 3381

INFO USMISSION IAEA VIENNA

C O N F I D E N T I A L SECTION 01 OF 02 PARIS 21884

E.O.11652: GDS

TAGS: ENRG, PARM, TECH, IAEA, FR

SUBJ: DRAFT CONVENTION ON PHYSICAL PROTECTION OF  
NUCLEAR MATERIALS

REF: (A) PARIS 20776; (B) STATE 171390

1. AFTER BRIEFLY MEETING WITH OFFICIALS OF THE  
MINISTRY OF INDUSTRY AND RESEARCH CONCERNED WITH PRO-  
TECTION OF NUCLEAR MATERIALS AND OFFICIALS OF THE  
MINISTRY OF JUSTICE INVOLVED IN INTERNATIONAL ACCORDS,  
MFA SCIENTIFIC DIRECTOR DE NAZELLE DISCUSSED WITH  
EMBASSY SCICOUN FRENCH INFORMAL VIEWS ON THE SUBJECT  
DRAFT CONVENTION. IN SUM, FRENCH VIEWS TURN ON TWO  
"MATTERS OF PRINCIPLE":

A. PRESCRIBED MEASURES FOR DEALING WITH THEFT AND  
MISUSE OF NUCLEAR MATERIALS ARE SUBJECTS OF CONCERN TO  
NATIONAL GOVERNMENTS AND NOT APPROPRIATE TO INTERNA-  
TIONAL CONVENTIONS - PROTECTION CRITERIA MAY BE  
DEVELOPED THROUGH INTERNATIONAL AGREEMENT BUT NOT THE  
NATIONAL MEASURES TO BE TAKEN TO COPE WITH INFRACTIONS.

B. INTERNATIONAL POLICE-TYPE ACTIONS TO ASSIST  
GOVERNMENTS IN SITUATIONS OF THEFT OR MISUSE OF NUCLEAR  
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MATERIALS ARE NOT APPROPRIATE RESPONSIBILITIES FOR THE

IAEA - IT MAY ASSIST IN PROVIDING TECHNICAL ADVICE, ESTABLISHING APPROPRIATE NORMS BUT SHOULD NOT DEVELOP A NUCLEAR "INTERPOL."

AN ADDITIONAL CONSIDERATION TO THE FRENCH IS THAT OF MAINTAINING THE CONFIDENTIALITY OF INFORMATION IN CERTAIN CIRCUMSTANCES WHEN CONSIDERED APPROPRIATE. ANOTHER ASPECT WHICH THE FRENCH ARE CONSIDERING IS WHETHER IT IS NECESSARY TO MAKE A SPECIAL CONVENTION FOR TERRORISM INVOLVING NUCLEAR MATERIALS OR WHETHER THE INTERNATIONAL CONVENTION ON COMBATTING TERRORISM COULD BE AMENDED TO COVER SITUATIONS INVOLVING NUCLEAR MATERIALS.

2. WITH REGARD TO ARTICLE 3, DE NAZELLE MENTIONED THAT IN HIS VIEW THE TEXT GOES BEYOND THE AGREEMENTS AND UNDERSTANDINGS REACHED IN THE LONDON SUPPLIERS DISCUSSIONS. THE FRENCH WOULD AGREE THAT THERE BE INTERNATIONAL ACCORD ON THE LEVELS OF PROTECTION TO BE GRANTED NUCLEAR MATERIALS, AND THAT THERE BE AGREED CRITERIA FOR COPING WITH VARIOUS LEVELS OF DANGERS. IT IS A MATTER OF PRINCIPLE WITH THE GOF THAT SUCH A CONVENTION NOT SPECIFY MEASURES THAT PARTIES WOULD BE REQUIRED TO FOLLOW INTERNALLY WHEN FACED WITH A NUCLEAR THEFT. TO THE FRENCH, THE IAEA CIRCULAR INFORMATION DOCUMENT NO. 225 IS NOT AN OFFICIAL IAEA DOCUMENT. IN ADDITION, IT WOULD NOT BE APPROPRIATE FOR THE IAEA BOARD OF GOVERNORS TO INITIATE CHANGES TO THE OBLIGATIONS OF STATES PARTY TO SUCH A CONVENTION.

3. WITH REGARD TO ARTICLES 4, 5 AND 6, DE NAZELLE HAD TWO QUESTIONS HE FELT SHOULD BE FURTHER CONSIDERED:

A. HOW AND TO WHAT EXTENT IS THE OBLIGATION OF THE RECEIVING STATE TO BE DEFINED? AND

B. IS IT NECESSARY TO MAKE SPECIFIC THAT THIS CONVENTION IN NO WAY INFRINGES ON THE RIGHT OF ONE STATE PARTY TO THE CONVENTION TO TRANSFER NUCLEAR MATERIALS TO ANOTHER STATE NOT PARTY TO THIS CONVENTION (ASSUMING THE SENDING PARTY IS SATISFIED WITH THE SECURITY AND PROTECTION MEASURES IN EFFECT IN THE RECEIVING COUNTRY)?

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4. ARTICLE 7 BROUGHT OUT THE FRENCH CONCERN FOR MAINTAINING THE CAPABILITY OF KEEPING CERTAIN INFORMATION CONFIDENTIAL. FOR EXAMPLE, THE STATES INVOLVED IN COOPERATION IN THE CASE OF A THEFT SHOULD BE LIMITED TO THOSE PARTIES CONCERNED WITH THE SPECIFIC THEFT. ALSO, THE OBLIGATION TO INFORM THE IAEA ON ALL ASPECTS DOES NOT HELP THE CAPABILITY OF MAINTAINING CONFIDENTIALITY. REGARDING PARA 1(C)(III), THE GOF FINDS THIS

PARTICULAR TEXT UNACCEPTABLE AS IT COULD FORCE A COUNTRY TO ACCEPT CERTAIN ASSISTANCE WHICH IT MIGHT BE ABLE TO USE BUT WOULD NOT WISH TO RECEIVE (PERHAPS FOR INTERNAL POLITICAL REASONS).

5. IN ARTICLE 8, PARA 1, ITEMS C, D, E, F AND

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C O N F I D E N T I A L SECTION 02 OF 02 PARIS 21884

PARA 2(A) WOULD NOT NECESSARILY BE CRIMES UNDER FRENCH LAW. DE NAZELLE NOTED THAT A SIMPLE THREAT IS NOT SUBJECT TO PROSECUTION. CERTAINLY AN UNAUTHORIZED ACT, WHICH MAY BE UNINTENTIONAL, WOULD NOT BE CONSIDERED IN THE SAME VEIN AS TERRORISM AND WOULD NOT INVOKE FRENCH ACTION TO EXTRADITE.

6. EMBASSY COMMENTS: THE ABOVE OUTLINES THE PRINCIPLE FRENCH REACTIONS TO THE US DRAFT, ALBEIT BASED ON A BRIEF AND HURRIED REVIEW. EMBOFF ASSUMES THAT THE FRENCH WOULD AGREE TO INCLUDING SPECIFIC PORTIONS OF THE IAEA INFORMATION CIRCULAR AS PART OF A TECHNICAL ANNEX OR NOTE TO A CONVENTION. IT APPEARS THAT THE

CONVENTION ON COMBATTING TERRORISM DOES PROVIDE A  
FRAMEWORK FOR INTERNATIONAL COOPERATION IN SUCH CIR-  
CUMSTANCES AND THAT CURRENT GOF VIEW IS TO FOLLOWING  
SIMILAR APPROACH FOR SIMILAR CIRCUMSTANCES INVOLVING  
NUCLEAR MATERIALS. THE FRENCH BELIEVE THAT THERE IS A  
NEED FOR SOME FORM OF INTERNATIONALLY-AGREED PROCEDURES  
FOR SITUATIONS OF INTERSTATE NUCLEAR TERRORISM OR THEFT  
AND ARE WILLING TO WORK WITH OTHERS, WILLING TO  
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ACCEPT THEIR BASIC PRINCIPLES EXPRESSED ABOVE. IT  
WOULD APPEAR THAT THE CONVENTION ON COMBATTING  
TERRORISM ALTERED TO COVER NUCLEAR TERRORISM OR THEFTS  
WOULD FIT THE FRENCH VIEW OF WHAT IS NEEDED.

7. IF THE DEPARTMENT WISHES TO PURSUE FURTHER FRENCH  
VIEWS IN THIS AREA, WE RECOMMEND THAT ONE OR TWO WELL-  
INFORMED US OFFICIALS VISIT FRENCH COUNTERPARTS  
IN PARIS TO UNDERTAKE A LENGTHY DISCUSSION ON ALL  
ASPECTS OF SUCH A CONVENTION. IF THIS APPROACH IS  
FOLLOWED, IT WOULD BE WISE TO GIVE THE FRENCH SEVERAL  
WEEKS NOTICE.  
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